REMARKS

The specification has been amended. No new matter has been added. Claims 1-8 remain in the application. Reconsideration and reexamination is respectfully requested.

The specification has been amended to substitute US application numbers and published application numbers for HP docket numbers.

In the paper dated 09/23/2004, claims 1-8 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of co-pending application number 10/001,586. Applicant respectfully traverses. The examiner has not established a *prima facie* case for obviousness. The present application specifies a variable time period and performance parameter, neither of which are present in claim 1 of 10/001,586. The examiner must show that either the variable time period and performance parameter are taught or suggested in the prior art, or must show that it would be obvious to modify the prior art to add the variable time period and performance parameter. The examiner has done neither.

In the paper dated 09/23/2004, claims 1-8 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7-9 of co-pending application number 10/001,584 (now U.S. Patent Number 6,813,691). Applicant respectfully traverses. The examiner has not established a *prima facie* case for obviousness. The present application specifies a variable time period, which is not present in US 6,813,691. The examiner must show that either the variable time period is taught or suggested in the prior art, or must show that it would be obvious to modify the prior art to add the variable time period and performance parameter. The examiner has done neither.

In the paper dated 09/23/2004, claims 1-8 were rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent Number 6,678,794 (Talyansky *et al.*). Applicant respectfully traverses.

Claim 1 specifies:

(a) specifying a time period;

(b) evicting, from a cache memory, at least one entry that has remained unchanged for at least the time period;

– 3 –

(c) measuring at least one performance parameter;

(d) changing the value of the time period;

(e) repeating steps (b) and (c); and

(f) determining whether the performance parameter has changed.

Talyansky *et al.* flush a dirty buffer that has remained unchanged for at least one sync period. Talyansky *et al.* do not teach or suggest changing the sync period, much less measuring a performance parameter before and after changing the sync period.

Regarding a performance parameter, the examiner cites column 3, lines 45-46. The cited lines state that the age of a dirty buffer is measured by sync periods. Effectively, the examiner is using a sync period both as the time period and as a measure of performance. Assuming for the sake of argument that the examiner is correct, then steps (c) – (f) require measuring the sync period, changing the sync period, flushing a buffer, measuring the sync period again, and determining whether the sync period changed. This is technically meaningless, and is not taught or suggested by Talyansky *et al.*

Claim 2 specifies measuring the rate of cache-to-cache transfers. Talyansky *et al.* do not teach or suggest cache-to-cache transfers. Regarding claim 2, the examiner cites column 5 lines 14-32. The cited text is not related in any way to cache-to-cache transfers.

Claim 3 specifies measuring how many evicted entries are accessed during a predetermined time span. Talyansky *et al.* do not teach or suggest measuring how many evicted entries are accessed during a predetermined time span. Regarding claim 3, the examiner cites figure 1 and column 4, lines 41-60. There is no evicted entry that is accessed in the cited figure or text.

Claims 5 and 6 specify evicting an entry that was received in a cache-to-cache transfer. Regarding claims 5 and 6, the examiner cites figure 1 and column 4, lines 41-60. The cited figure and text are not related in any way to cache-to-cache transfers.

Claim 7 specifies repeating steps (a) through (f) until the performance parameter is optimized. Claim 7 specifies repeating steps (a) through (f) until the performance parameter changes. Regarding claims 7 and 8, the examiner cites column 5, line 33 to column 6, line 52. There is no teaching or suggestion in the cited text for optimization or changing of a performance parameter.

–4–

The following comments are in regard to other art made of record by the examiner. U.S. Patent Numbers 5,655,103; 5,671,391; 6,026,475; 6,490,671; 6,425,057; 6,493,801; and 6,542,861 do not teach or suggest steps (a) – (f) of claim 1. US 2003/0084253, US 2003/0084251, US 2003/0084250; and US 2003/0084248, were filed by the same assignee on the same day as the present application.

Entry of this amendment is respectfully requested. This application is considered to be in condition for allowance and such action is earnestly solicited.

Respectfully submitted,

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– 5 –